



Department
of Health &
Social Care

*From Jackie Doyle-Price MP
Parliamentary Under Secretary of State for Mental Health,
Inequalities and Suicide Prevention*

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Jo Swinson CBE MP
By email to: jo.swinson.mp@parliament.uk

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Dear Jo,

Thank you for your correspondence of 11 July to Matt Hancock on behalf of a number of your constituents about abortion.

I appreciate your constituents' concerns about the recent ruling in the Court of Protection by Justice Lieven that a woman with a learning disability should have an abortion. Whilst it would not be appropriate for the Department to comment on the circumstances of this case, I note your constituents are aware that the family involved appealed and that the Court of Appeal has overturned the original judgment.

It is right that serious or complex decisions, or cases where there is a dispute about what is in a person's best interests, should be brought to the court, so that judgments can be made by the independent judiciary.

The Court of Protection was established in 2007 and specialises in the affairs of the most vulnerable people in our society. Its cases cover a wide range of issues, including decisions about financial affairs, welfare, serious medical treatment, social care provision, where a person lives, who they live with and who they have contact with.

The Court of Protection can make decisions on an individual's behalf in relation to their personal welfare where that person lacks capacity to do so, including for medical treatment. However, these decisions must follow the principles of the Mental Capacity Act; that is, that decisions must be made in the person's best interests but must also be least restrictive of their own rights and freedoms.

The Mental Capacity Act is designed to protect and empower people who lack the capacity to make their own decisions about their care and treatment; it applies to

people aged 16 and over. The Act covers decisions about day-to-day activities, as well as those that are serious and life-changing.

The Act is supported by an accompanying statutory Code of Practice, which people making decisions under the Act must consider. The Code provides guidance to anyone working with and/or caring for adults who may lack capacity to make certain decisions. It is available at www.gov.uk by searching for 'Mental Capacity Act'.

Additionally, NHS guidance on the Mental Capacity Act is available at www.nhs.uk, also by searching for 'Mental Capacity Act'.

I appreciate that this may be a disappointing reply, but I hope it is helpful in setting out the Government's position on this matter.



JACKIE DOYLE-PRICE